

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

OCT 26 1992

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Amendment of the Amateur Radio Service )  
Rules to Provide a Special Temporary )  
Licensing Procedure for Visiting )  
Foreign Amateur Operators )

PR Docket 92-167

To: The Commission

COMMENTS OF W5YI-VEC

The W5YI-VEC, by its counsel, files these comments in support of the proposed amendments to the rules for the Amateur Radio Service, which would create a procedure to temporarily authorize the Amateur Radio operations of visiting foreign licensees.

The Commission's proposal in this proceeding relies heavily upon the existing structure and mechanisms of the Volunteer-Examiner Coordinator (VEC) system for its implementation. The W5YI-VEC has been performing the functions of a VEC since 1984 and, therefore, is eminently qualified to comment in this proceeding.

The W5YI-VEC agrees that the Commission's proposal would close a gap in the Commission's rules. In this proceeding, the Commission has proposed a mechanism by which foreign nationals, who have been issued Amateur Radio licenses by their own countries, may be authorized to operate their stations in the United States during a visit.

No. of Copies rec'd  
List A B C D E

0 + 9

At present, such operation can be authorized by a reciprocal operating permit, but only if there exists a reciprocal operating agreement between the United States and the visitor's home country. If no such agreement exists, the visiting amateur's only alternative is to obtain a U.S. Amateur Radio license in the customary way.

The Commission's proposal would create an alternative which would save the visitor from having to obtain a 10-year license for a 2-month visit and would save the Commission the burden of processing the application and maintaining the licensing data for 10 years. Furthermore, while we understand that the reciprocal operating permit procedure is not being replaced, it is possible that the instant authorization feature of the temporary licensing procedure may be attractive to applicants who would otherwise be eligible to apply for a reciprocal permit. We understand that the Commission processes approximately 250 applications for reciprocal operating permits each month. If this number is reduced by the temporary licensing program, further FCC resources can be saved.

The Commission's Notice of Proposed Rule Making in this proceeding outlines five steps that are necessary for issuance of a temporary license to visiting foreign amateurs. This outline is in the context of the VEC testing

system, where teams of existing U.S. Amateur Radio licensees test the knowledge and skills of applicants, record the results, provide documentation to the applicants and forward the paperwork, through the VEC, to the FCC for processing. This system could readily be adapted to handle the temporary licensing of visiting foreign amateurs.

#### Evidence of Amateur Licensee Status

As described by the NPRM, the first task would be to confirm that the foreign amateur currently is licensed by another administration. The best evidence of this would be possession of an Amateur license issued by the visitor's country and the presentation of that license to the volunteer examiners (VEs) for inspection. Under the proposed rules, the VEs would record the call sign of the visiting amateur's station license, for eventual forwarding to the VEC.

As a VEC, W5YI-VEC can affirm that, logistically, this step is completely feasible and within the capability of the VE teams. However, the opportunity for fraud and abuse is the greatest at this point in the process. It would be a practical impossibility to provide each VE team with reference specimens of valid amateur radio licenses from around the world. Virtually any official-looking document with an amateur radio call sign on it could be represented

to be a valid license and most VE teams would be ill-prepared to know for sure.

Therefore, barring evidence of collusion, VEs and VECs who participate in this program must have the assurance of the Commission that they will not be held responsible for the issuance of a temporary license that was obtained under false pretenses.

W5YI-VEC has no basis upon which to predict the incidence of fraud in this process. However, we do not think that the possibility of fraud should deter the Commission from implementing this program. The short duration (60-days) of the operating authority should operate as a disincentive for fraud.

#### Operating Privileges

The second step in the process is to determine the operating privileges of the visiting foreign amateur. Again, it would be logistically impossible for the VEs to know or to ascertain the operating privileges of every class of amateur license issued by every administration on earth.

The rule proposed by the Commission establishes that the privileges conveyed under the temporary license would be the same as those conveyed under the visitor's home license, so long as those privileges did not exceed those of the

highest class of license issued in the U.S., the Amateur Extra Class license. This is essentially the same as the rule that governs reciprocal licenses and we know of no reason why such a rule would not be suitable for the temporary licensing program.

That being the case, the Commission should remove the requirement that the VEs determine and report to their coordinator the control operator privileges that are authorized to the visiting foreign amateur. The Commission should affirm that VEs are not required, as part of the temporary licensing process, to themselves ascertain the privileges of the visiting amateur's licenses. Nor should the VEs be required to make a notation of privileges on the certificate that may be issued to the visiting amateur.

Instead, since some revisions to the Certificate of Successful Completion of Examination (CSCE) will be required as a result of these rule changes for the VEs to note the operating period, the Commission should require a notation to be made by the VEs on the CSCE that, when issued to a visiting foreign licensee, the CSCE conveys only the privileges of (Call Sign), not to exceed the privileges of the U.S. Amateur Extra Class license. This would impress upon the visitor that it is the visitor's responsibility to know the limits of the authority conveyed, based upon the

visitor's own knowledge of his or her privileges in his or her own country.

#### Verification of the Visitor's Qualifications

Unlike a reciprocal permit, where no test is required, the temporary license would require a test. This, we think, as a matter of law, distinguishes the temporary license from the reciprocal permit and answers concerns about the authority of the FCC to issue such an authorization to foreign nationals whose administrations have not entered into reciprocal operating agreements with the U.S. The FCC can and does issue U.S. Amateur licenses to foreign nationals who take and pass the required test elements, without regard to the existence of a reciprocal operating agreement. The temporary license, for which a test is required, is no different.

Just as the Commission has the discretion to make the finding, required under international regulations, that an applicant possesses the skill to "send correctly by hand and receive correctly by ear" Morse telegraphy, without administering an actual sending test, so also does the Commission possess the discretion to determine that an applicant possesses other requisite qualifications without actually administering the test elements. The FCC considers the Morse receiving test as the equivalent of a Morse sending test. In this case, the FCC is willing to accept

the applicant's foreign license as the equivalent of successfully passing most test elements, at least to support a 60-day authorization.

The FCC is right to consider, however, that a foreign license would not be an equivalent demonstration of knowledge of unique U.S. regulations. Accordingly, the FCC has proposed the creation of a new test element, Element 5, that would contain questions on this subject.

As a VEC, W5YI-VEC can assure the Commission that the Question Pool Committee of the VECs can create Element 5 from the existing pool of 402 questions pertaining to Subelement 1, "FCC Rules for the Amateur Radio Services." Initially, the pool of questions would be reduced by deleting questions that would not be relevant to visiting foreign amateurs, such as questions concerning the volunteer examination system.

In rule section 97.503(b)(6) the Commission has proposed that 20 questions be asked and 18 answered correctly, in order for a visiting foreign amateur to qualify for a temporary license. W5YI-VEC questions why a 90% passing score would be required for Element 5 when the normal passing score for all other elements is 74% or 75% (see §97.503(b)). Moreover, the VEs already have answer

sheets and test generation software that is based upon a 74% or 75% standard. To minimize the impact on the VEC system, W5YI-VEC urges the FCC to adopt a 75% standard, rather than 90%. Section 97.503(b)(6) should be revised to specify that 15 of the 20 questions must be answered correctly.

#### Documentation

At the present time, the VEs issue a CSCE to applicants who successfully complete examination elements. This certificate, in conjunction with the applicant's existing license, entitles the applicant to operate with the privileges of the class of license for which the applicant has successfully qualified. Similarly, a CSCE for Element 5, when issued to a licensed foreign amateur, would entitle that amateur to operate his or her station in the U.S., with the same privileges that the visitor enjoys back home, up to those of the U.S. Amateur Extra Class license.

Under the proposed rules, when issued to a visiting foreign amateur, a CSCE must specify the starting and ending dates of a 60-day consecutive period of temporary licensing. This would require modification of the present stocks of CSCE forms, but it does not represent an impediment to the program. However, as pointed out above, since the CSCE forms must be amended for this purpose, the form should also be amended to include a place for insertion of the call sign of the visitor's amateur station together with a statement



that the privileges are those authorized to that station by the foreign administration, but no greater than the U.S. Amateur Extra Class license.

#### Recordkeeping

The VEs are accustomed to forwarding test results and data to their coordinators and the Element 5 test results, together with information about the visitor's name, call sign, address in the U.S. and period of temporary operation, could similarly be forwarded to their coordinators, as proposed in the rules. Since the VECs currently maintain a central data base of codeless Technician Class licensees who have passed telegraphy examinations, the FCC may wish to consider establishment of a similar data base for temporary visiting amateurs.

The VECs would be required, under the proposed rules, to provide information pertaining to temporary foreign licensees to the FCC upon request. This is a feasible addition to procedures that are already being followed in the normal testing program.

#### Reimbursement

The FCC has proposed to allow reimbursement of out-of-pocket expenses in connection with this program. Again, W5YI-VEC supports this proposal as consistent with the present VEC system.

### Examiners

The FCC has proposed to require the VEs for temporary visiting license to be Amateur Extra Class licensees. Since the privileges conveyed by the temporary license may be equal to those of the Amateur Extra Class license and since test questions will come from Element 4(B), W5YI-VEC agrees that volunteer examiners for these temporary licenses should be restricted to Amateur Extra Class licensees.

### Conclusion

For the reasons stated above, the W5YI-VEC supports the Commission's proposal, with suggested modifications, to create a special temporary licensing procedure for visiting foreign amateur operators.

Respectfully submitted,

W5YI-VEC

By Raymond A. Kowalski  
Raymond A. Kowalski  
Its Counsel

Keller and Heckman  
1001 G St., N.W., Suite 500 West  
Washington, D.C. 20001  
(202) 434-4100

Date: October 26, 1992